The Solicitors' Journal

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Current Topics.

More Judges.

THE conclusion of informed opinion on the question whether the undefended divorce work on circuit and in London should be transferred from the High Court to some other branch of the judiciary seems to have been best expressed in the words of His Honour Judge KIRKHOUSE JENKINS, who wrote (*The Times*, 18th January): "The choice of a tribunal depends on whether the Legislature regards the dissolution of marriage with the consequent destruction of family life, as a matter of importance or not." Reports by various Government committees and Commissions during the present century, the most recent being that over which LORD PEEL presided in 1934–36, have found that the status of those trying undefended divorce cases should not be less than that of a High Court judge, and to judge by the latest reform proposals, this official view does not seem to have changed. To implement part of the recommendations of the recent report by the Matrimonial Causes (Trials in the Provinces) Committee, a new Supreme Court of Judicature (Amendment) Bill was introduced in the Commons by the Attorney-General on 20th January. The maximum number of puisne judges of the High Court is at present twenty-nine, but a vacancy occurring in the King's Bench Division cannot be filled without an address from both Houses of Parliament, unless the number of King's Bench Judges is less than seventeen. A similar vacancy occurring in the Probate, Divorce and Admiralty Division cannot be filled without an address from both Houses unless the number of judges in that Division has fallen below three. In the Chancery Division a vacancy cannot be filled without the approval of the Lord Chancellor and the concurrence of the Treasury, unless the number of judges in that Division falls below five. It is proposed by the Bill that the procedure for filling vacancies shall be simplified, so that the Lord Chancellor, with the concurrence of the Treasury, shall fix the number of puisne judges within the limits of a minimum of twenty-five and a maximum of thirty-two. The Lord Chancellor is to have regard to the state of business in the High Court as a whole. The minimum number of judges for the King's Bench Division is to be seventeen, for the Chancery Division five, and for the Probate, Divorce and Admiralty Division three. The Bill provides, however, that a puisne judge of the High Court may be transferred by direction of the Lord Chancellor from one of the Divisions of the High Court to another, but no direction is to be given for the transfer of a judge from the King's Bench Division, or from the Probate, Divorce and Admiralty Division, without the consent of the Lord Chief Justice or the President respectively. At present it is possible for a transfer to take place, but only under the Royal Sign Manual. It is expected that when the Bill becomes law, two, or perhaps three, additional judges will be appointed to devote themselves to dealing with the divorce lists. In a written answer to questions in the Commons on 20th January, the Attorney-General stated that some of the judges would be available to go circuit as proposed by the Matrimonial Causes Committee, and the Lord Chancellor proposed to alter existing regulations so as to enable contested divorce suits in appropriate cases to be tried and disposed of in the provinces. Financially, the Bill results in the authorisation of an additional charge upon the Consolidated Fund for the amount of salaries and pensions which will become payable if and when new judges are appointed. There would also be a charge upon moneys provided by Parliament in respect of the salaries of their clerks. A High Court judge's salary is £5,000 a year and his pension £3,500 a year, and his clerk's salary is £525 a year. Another interesting, though cryptic, statement was recently made by the Attorney-General in his message to the annual meeting of the Bar in the Old Hall, Lincoln's Inn, on 18th January. He said that if difficulties arose as a result of any extension of the jurisdiction of assize courts on divorce work, means would be found to deal with them in a way which would serve the public interest and preserve the many advantages of the circuit system.

A New Judgment.

IT was a great pleasure to Sir NORMAN BIRKETT's friends and well-wishers to hear his magnificent voice ringing in its old confident tones over the B.B.C. wavelength on 21st January. His subject, Judge JEFFREYS of the Bloody Assize, has always been of vast fascination to the historian and the lawyer, and aided by the perfect acting of Mr. CECIL TROUNCER, Sir NORMAN's "new judgment" was a complete success. The various judgments which have been recorded in the past on Judge JEFFREYS were illustrated by Sir NORMAN ("His enemies could not deny that he possessed some of the qualities of a great judge. His depravity passed into a proverb. Tenderness for others and respect for himself were feelings unknown to him.") As a dying man in the Tower he appears to have had some consciousness of the misery he had created, for he resorted to that frequent refuge of evil men, the excuse that what he did was by express orders. Sir NORMAN emphasised the dreadful lot of prisoners of that day, and the ghastly sufferings inflicted before and during execution at the gibbet and the stake. The penalty for any ordinary offence was death and the criminal code was savage and ignorantly barbarous. Sir NORMAN placed the true figure of sentences to death at the Bloody Assize as probably 170 at the most. The judgment that Sir NORMAN delivered was a brilliant justification of the sentence of excommunication from the ranks of decent historical figures, which posterity was in the process of passing and the clear manner in which the broadcaster placed this young judge against his native background and outlined his tremendous gifts as well as his tremendous faults will, indeed, have its effect on the new judgment of to-day.

The War and the Courts.

IN a leading article in *The Spectator* of 31st December, 1943, comment was made at some length on the poor outlook for litigation now and in the years to come. The war, the writer observed, has brought a slump rather than a boom in litigation. That is only part of the truth, and it should be added that in a war in which there is a greater restriction of non-essential business and production than ever before in history, the complaint is, not that there are idle barristers and solicitors waiting for court work to occupy their time, but that the few experienced lawyers who remain have their time more than fully occupied. The writer admits that the number of barristers available is greatly reduced, but adds: "Not many of them are flourishing and the few who are busy are mostly engaged in cases of no great magnitude." As the gentlemen of the Brains Trust might have commented: "It all depends on what you mean by 'prosperous' and by 'magnitude.'" If the writer meant that the Bar is no longer drawing the dazzling incomes of other days, he is, no doubt, right, but in comparison with the type of work that brought in heavy fees before the war, the work that the Bar is doing now, though less well paid, is far more directly related to the public service. As for prosperity, neither lawyer nor layman expects or gets prosperity in the grimmest war of all time. No one, not even lawyers, deplore the facts noted in the article, that running-down, libel and breach of promise actions have decreased in number, but few practitioners in the county courts will agree that "cases between landlord and tenant, at any rate, as far as the county court is concerned, have almost come to an end, for the landlord knows that it is hopeless." There are still days in some county courts on which possession cases take up the greater

part of the court's time, and to say that the landlord's case is hopeless in actions where he requires his own house for his own occupation, to take only one of the cases where the court may order possession, is plainly wrong, both in law and in fact. No one, however, will disagree with the writer's statement that solicitors are extremely busy and their staffs are greatly reduced, or that the average respectable solicitor only lets his client go to law when it is inevitable. The article concludes with the opinion that " now victory seems at last to be within sight, every one is letting his cases wait till after it is all over." This is an interesting thought, but we doubt whether it is capable of proof or justification. On the contrary, it is, one hopes, reasonable to believe that there is for all practical purposes no one whose post-war planning includes the setting in motion of specific lawsuits.

Local Government Reform.

The Times has rendered a notable public service in printing, in its issue of 6th January, a thoughtful article on " Plans for Local Government," from an anonymous, but obviously, fully informed correspondent. Noting first of all that in the present century local authorities have been more concerned with the personal welfare of their inhabitants than with the conditions in which they lived, and that Parliament has laid on local authorities an increasing burden of national services for which they act as local executive agents on behalf of the Government, the writer states that this has led to a great increase of central government control over local authorities. When war came, adjustments had to be made: civil defence was entrusted to the county councils and the county borough councils with directions to set up small emergency committees; the country was divided into twelve new regions and twelve Regional Commissioners were appointed to co-ordinate civil defence throughout their regions and to have special powers in the case of invasion. Other civil departments have set up regional officers, directly responsible to the central government. All this has created understandable anxiety in local government circles. The writer of the article puts, perhaps, better than it has yet been expressed, the problem to be solved. Here, he states, " is a new sub-government machine apt in structure and potentialities to be entrusted with almost total control over all phases of local government activity. The civil defence regions, even if not ideal, reflect more closely than the present local authority areas the extent of territory which modern communications and methods make feasible as administrative units. If executive efficiency alone is to be the touchstone it can be argued that administration of this country in not more than, say, thirty regions is practicable. But at the same time, it is obvious that this is not a democratic alternative to directly elected local authorities. Answerability of a commissioner to a Minister in an overburdened Imperial Parliament can never be any sort of substitute for the local forum provided by the council chamber." Several Government departments, the writer states, are devising plans following the lines of war-time administrative success, plans which furnish the antithesis of the all-purpose authority, and recent Ministerial utterances suggest that the problem of local government reform is to be by-passed. The local authorities' organisations, it is stated, have not gone much further in producing a unified plan than to condemn regionalism in plain terms. A single policy is urgently necessary, and as the writer hints, it should be one which takes account both of modern demands and the valued and tested principles of democracy.

Some Comments.

THE statement in the article mentioned above that the associations of local authorities had failed to produce a single scheme of local government reform and had contented themselves with the preparation of schemes, each designed to foster the perpetuation of a particular type of authority, has been denied by the officers of the County Councils Association, writing in *The Times* of 22nd January. The report of the County Councils Association, their letter states, seeks to strengthen all existing types by the elimination of the weaker brethren and by some redistribution of functions, and the county councils themselves are not excluded from criticism and suggested reformation. Secondly, the Executive Council of the Association, when adopting the report, indicated that, failing a Government Inquiry, they were ready to confer with all other associations concerned. As a result, a large measure of agreement with the Rural District Councils Association has already been reached and conversations with the Association of Municipal Corporations were in progress. It is most regrettable, the letter states, that the Government have declined to undertake an independent inquiry. The ostensible reason was that the pace of reform would not permit the delay occasioned by an inquiry. The letter states that it will not escape notice that, so long as local government remains unreformed, and ineffective though doubtless well-intentioned units thus remain, Government departments are provided with an argument in support of whatever schemes for the acquisition of local functions they may happen to cherish. In a letter in the same issue of *The Times* from the President of the National Association of Local Government Officers, it is stated that what is happening to-day threatens the whole structure of local government in this country, and if the process continues it may well involve the collapse of local democratic administration, and its supersession by a central bureaucracy over the operation of which the local government elector will have no control. The local government elector, it is said, may find, after the war has been won, that he is left in control of only a few unimportant functions which Whitehall does not want. This is indeed a strong statement, but if matters are allowed to drift, it may appear in the years to come not to have been exaggerated.

Wife Maintenance and Soldiers' Pay.

SOLICITORS who have to advise soldiers and their wives as to their rights find nowadays that they have to tread on somewhat unfamiliar ground. They are therefore grateful for any guidance that can be given on the subject of soldiers' pay. Useful information on this subject is contained in the current issue of *The Law Society's Gazette*. It is stated that where the wife of a soldier has had the family allowance withdrawn (either at the request of the soldier or by action of the military authorities, and whether divorce proceedings have been started or not) then, in addition to the remedies available in the civil courts, the wife has the right under s. 145 (2) (*b*) of the Army Act, to apply to the officer known as the competent military officer, deputed by the Army Council for the purpose, for a compulsory stoppage from the soldier's pay. The competent military officer, if satisfied that the wife or family have been deserted or left destitute without reasonable cause, will assess the amount which he thinks a civil court would have been likely to award, and payments will be made accordingly by the regimental paymaster. The competent military officer must take into account the wife's earnings as a civil court would, and the payment may, therefore, be less than the amount previously received by way of family allowance and allotment. The address for applicants and their solicitors to write to is, The Under-Secretary of State for War, the War Office, A.G.3. (E.) London, S.W.1, and the following information should be given where available: (i) the soldier's name, army number, rank, unit and corps; (ii) whether proceedings have been started or contemplated in either a court of summary jurisdiction or the High Court (and, if the latter, in which district registry); (iii) the reasons for the break between the husband and the wife, or the evidence on which divorce proceedings, if any, are founded; (iv) the wife's present earnings and other private income; (v) any private income of the soldier apart from his army emoluments. This award terminates its operation (*a*) on the soldier leaving the army; (*b*) if and when a decree absolute is pronounced. It is interesting to note that Lt.-Col. R. H. Russell, a member of The Law Society, is the present competent military officer.

Recent Decisions.

In *Concentrated Foods, Ltd.* v. *Champ*, on 17th January (*The Times*, 18th January), the Divisional Court (LAWRENCE, LEWIS and WROTTESLEY, JJ.) held on a case stated from the justices sitting at Maidenhead, that where the prosecution and the defence on trial of a charge for giving a misleading label with a certain article of food, described as " Orangette," contrary to s. 6 (1) of the Food and Drugs Act, 1938, each called a public analyst to give evidence on the question whether the label was misleading, and the justices preferred the evidence proffered by the prosecution, that was a finding of fact with which the court could not interfere.

In *Hay* v. *Rubber and Technical Press, Ltd.* and *Sun Engraving Co., Ltd.*, on 17th January (*The Times*, 18th January), HALLETT, J., held that an article alleging that the plaintiff lobbied in the U.S.A. and Britain to prevent the establishment of synthetic rubber plants after refusing to permit stocks of crude rubber to be built up in the U.S.A., was libellous, as it contained a clear allegation that the plaintiff had used backstairs methods against the proposal to establish synthetic rubber plants in the U.S.A., against the interests of Britain while at war. The defence of fair comment failed because the facts were not stated accurately in the article.

In a case in the Divisional Court on 18th January (*The Times*, 19th January) (LAWRENCE, LEWIS and WROTTESLEY, L.JJ.) it was held that at the trial of a charge under s. 3 of the Food and Drugs Act, 1938, for selling an article which was not of the substance, nature or quality demanded by the purchaser, the magistrates, in fixing the standard of quality applicable, could not take into account a standard laid down in an order made under the Defence (General) Regulations, 1939, which did not come into operation until some months after the sale had taken place.

In *Miller* v. *William Boothman & Sons, Ltd.*, on 19th January (*The Times*, 20th January), the Court of Appeal (SCOTT, LUXMOORE and GODDARD, JJ.) held that the obligation to fence dangerous machinery securely, as laid down in s. 14 of the Factories Act, 1937, must be taken to be modified by s. 60 of the Act, which gave the Secretary of State power to make special regulations it being recognised that there were some machines necessary to modern industry of which circular and band saws were good illustrations, which could not be completely fenced. The Woodworking Machinery Regulations, 1922, must, therefore, be regarded as modifying s. 14 of the Act.

A Conveyancer's Diary.

1943. Chancery—V.

No review of the year would be complete without some reference to *Re Caborne* [1943] Ch. 224; 87 SOL. J. 201. In that case, Simonds, J., in a reserved judgment, declared that a condition attached to a legacy, tending to encourage the dissolution of an existing marriage, was "absolutely void." The judgment is interesting, not only for its review of previous cases and for the cogency of its language, but as a very clear instance of the Chancery attitude to divorce.

By a will made in 1935 the testatrix provided, *inter alia*, as follows: "I give all the residue of my property unto my son absolutely, provided that if his present wife shall still be alive and married to him the absolute gift to him next hereinbefore contained shall be modified in such manner that . . ." and then followed sentences whose effect was to diminish, during the subsistence of that marriage, the benefits given to the son. The only facts stated in the report are that the son and his wife separated six months after the date of the will, that the testatrix died in 1937 and that the son died in 1941. The summons was taken out by the son's personal representatives, who claimed, *inter alia*, that the testatrix's residue belonged absolutely to the son's estate and that the proviso was void. The learned judge stated that while "the proviso as a whole is complicated and tortuous," it was conceded by counsel that "its plain meaning and effect was in the nature of a condition subsequent cutting down the absolute gift to the son if he predeceased his wife and their marriage had not, in the meantime, been dissolved." He proceeded: "The contention, on the one hand, being that such a condition is against public policy, and, therefore, void, I received, on the other hand, the usual warning against the court attempting to define the policy of the law; but I do not think that I set up any new head of public policy, or urge that 'unruly horse' from its measured gait, if I reassert the sanctity of the marriage bond, and with it the importance of maintaining the integrity of family life, and, therefore, denounce and declare void a provision which is designed or tends to encourage an invasion of that sanctity." In support of this statement of principle, the learned judge cited a passage from *Hope* v. *Hope*, 8 D.M.G. 731, a case just before the passing of the Act of 1857, which set up the modern Divorce Court. Against this principle it had been urged that "since the Legislature has thought fit to provide the remedy of divorce, it cannot be against the policy of the law that a husband or wife should pursue it." This contention he held to be fallacious: "The law provides the remedy of divorce for an injured spouse who can allege and prove one or other of the statutory grounds for divorce. A divorce *a vinculo*, which could formerly be granted only by a special Act of Parliament, may now be granted by the High Court under the jurisdiction conferred by general Acts, but it then was and now is a remedy granted in default of a better cure. Whether the matter be looked at from its religious or civil aspect, the positive duty of reconciliation and the danger of a provision which tends to encourage a departure from that difficult path are equally obvious. How often must any judge of this Division, exercising the familiar jurisdiction over infants, have felt a profound conviction that the welfare of his wards and the interest of society as a whole could best be served by a reconciliation of the parents, and, perhaps, deplored the readiness with which one or other, or too often both of them, embraced the opportunity of statutory relief. An inducement to that step by the promise of material advantage must, in my judgment, be utterly invalid."

These passages are of very great importance. The case was decided as long ago as last May, and I have deferred comment on it until now, so as to be reasonably sure before writing that no appeal is impending. It seems now reasonably safe to assume that there will not be one. That being so, the judgment of Simonds, J., will be a principal authority on the policy of the law, not only as to conditions in wills, but generally. For example, it will be material to the question whether trustees are acting within their powers in exercising a power of advancement in order to put an object of the power in funds to present and prosecute a petition for divorce, and the exercise of a power of appointment with such an end in view may well be a fraud on the power. If I may respectfully say so, it was time that some experienced authority made a stand of this character. In *Blunt* v. *Blunt* [1943] A.C. 517, 525, the Lord Chancellor said that it is "of primary importance (in) the interest of the community at large . . . (to) maintain a true balance between respect for the binding sanctity of marriage and the social considerations which make it contrary to public policy to insist on the maintenance of a union which has utterly broken down." That was said in relation to the exercise of the court's discretion in granting a decree of divorce. The second scale of the balance strongly suggests that the grounds for divorce and the attendant matters of procedure ought to be extended so that unions which *have* utterly broken down shall indeed be ended and ended quickly. But Simonds, J., was stating his general experience when he said that the statutory relief is embraced far too readily and too often. That is to say, the law as it stands makes it too easily possible for spouses to release themselves *a vinculo* without regard to the "positive duty of reconciliation," and so without really being sure that the breakdown need be final. The value of his statement lies, among other things, in the fact that he was speaking as a judge of the Chancery Division deploring the consequences upon the children of their parents' lack of respect for that positive duty. In *Blunt* v. *Blunt*, *supra*, the House of Lords put the welfare of the children as the first matter to be considered with reference to the exercise of discretion. But, of course, by the time a case has reached the point where the discretion has to be exercised, the parties will usually have long decided that the breach is too wide to heal. The effect of the judgment of Simonds, J., is to give a most weighty reminder of the avoidable damage that can be done to the children even by an "innocent" parent who too readily embraces the opportunity of divorce which is afforded by some particular lapse of his or her partner. This aspect is certainly not understood as generally as it ought to be.

In the rest of his judgment in *Re Caborne*, Simonds, J., dealt with the contention that at the death of the testatrix, when the will became operative, the son and his wife had in fact separated by agreement, and that therefore provision for a future divorce was valid. The learned judge dissented from this proposition. "It has long been established, though not without formidable opposition, that where a husband and wife are in fact separated or have determined on an immediate separation, provision may validly be made for that state of affairs, but it is not, in my judgment, a legitimate inference from this that provision can therefore be made for divorce. About separation there is nothing final. It may, and not seldom does, lead to reunion, but to make provision for divorce is, as much for parties who are separated as for those who are living together, an invitation to matrimonial offence, or, at the least, its result may be to bar reconciliation and make irremediable a breach for which time and goodwill might have found a cure." In support, Simonds, J., again cited *Hope* v. *Hope* and the case of *Tennant* v. *Brace* in 1612, where "a . . . devise made to a daughter to pay her a sum of money if she will be divorced from her husband, the gift made good, though the condition void." (Presumably at that date the divorce was only one *a mensa et thoro*: the case of a modern divorce *a vinculo* is stronger). He then mentioned a case of *Re Thompson* in 1939, where Bennett, J., was reported as having upheld a provision not unlike that which was now before him. The case is not in the Law Reports, and he held that it was one depending on its own particular facts. He also referred to an unreported case of *Re Freedman*, where, in 1942, Farwell, J., held such a provision void, treating the matter as too plain for a reasoned judgment. Next he dissented from a New Zealand case of *Wacker* v. *Bullock* (1935), N.Z.L.R. 828, where a provision contingent on divorce was upheld. And, finally, he pointed out that *Fender* v. *St. John Mildmay* [1938] A.C.1, decided only the single point that "a promise of marriage made by a husband or wife after decree *nisi* and before decree absolute does not offend against public policy, and that the breach of it may found an action for damages." He added that "it would, in my opinion, be wrong to find in isolated passages, particularly in the speech of Lord Wright, any support for the proposition that the duty of reconciliation is less urgent, or any provision tending to lead husband or wife from that path less vicious, than it has often been proclaimed to be."

I have dwelt on this case at length, because it seems a very important one. I cannot help feeling that its content may come as a surprise to a good many practitioners, since cases of this kind are relatively few and undefended petitions very many. But the Chancery attitude, based in some part on the experience of dealing with wards of court, is again clearly stated for all to see.

High Court of Justice.

CHANCERY DIVISION.

The Lord Chancellor has made the following appointments and directions:—

1. Mr. Justice Simonds to be the single Judge for the purpose of hearing such appeals under Order 54D of the Rules of the Supreme Court as are to be heard and determined by a single Judge; and Mr. Justice Simonds and Mr. Justice Morton to be the two Judges constituting a Divisional Court for the purpose of hearing and determining such appeals under Order 54D as, in accordance with the provisions of that Order, are to be heard and determined by a Divisional Court of the Chancery Division.

2. Mr. Justice Simonds to be the Judge for the duties imposed by Rule 15 (2) of the Public Trustee Rules, 1912.

3. Mr. Justice Simonds, Mr. Justice Uthwatt and Mr. Justice Vaisey, or one or more of them to be the Judges by whom the jurisdiction of the High Court under the Companies Act, 1929, is to be exercised.

4. Mr. Justice Vaisey to be the Judge whose name shall be marked upon every cause or matter in the Chancery Division commenced in the District Registry of Liverpool or the District Registry of Manchester.

Lord Chancellor's Office,
House of Lords, S.W.1.
21st January, 1944.

Mr. A. S. Fawcett, solicitor, of Sheffield, left £7,764, with net personalty £615.

Landlord and Tenant Notebook.

New House as Waste.

"If the tenant build a new house, it is waste," says Coke in para. (*f*) to s. 67 of his "Commentaries." Modern text-books strongly disagree; and though, owing to the war, there is little building at the moment, the fact that (also owing to the war) many leases of properties rendered unfit are now deemed to contain covenants to render fit, makes the conflict worth examining. In our issue of 4th September last (87 SOL. J. 315) I discussed the meaning of "rendered fit" in ss. 10 and 11 of the Landlord and Tenant (War Damage) Act, pointing out that it was not the same as that of "reinstated"; the present article will touch on the question whether a landlord entitled to the benefit of the covenant imported into a "retained" lease can complain if the tenant chooses to build something more elaborate. For, according to Coke's next paragraph, "If the house . . . be . . . prostrated by enemies . . . the tenant may build the same againe with such materialls as remaines etc . . . but hee *must not make the house larger* than it was."

Taking the two quotations together, I suggest that the underlying principle is that any act which changes the nature of the demised property, though it thereby becomes more valuable, is waste.

But the first dictum—if a tenant build a new house, it is waste—is generally said to have been finally disposed of by the judgment of Jessel, M.R., in *Jones* v. *Chappell* (1875), L.R. 20 Eq. 539. In this case a tenant of London property sued his neighbour, who held of the same landlord, for erecting noisy sawmills on vacant land, in consequence of which the plaintiff lost money because the (weekly) tenants of his rooms all left. It will be seen that in so far as the claim was based on waste it was misconceived, for the action for waste can be brought only by a reversioner. Nevertheless, Jessel, M.R.'s observations on the point are obviously entitled to respect. But perusal of those remarks merely shows, in my submission, that the learned Master of the Rolls considered that building on vacant land would not be waste if evidence of title was not impaired and if value was not reduced. On the second point, his lordship referred to *Doe* v. *Earl of Burlington* (1833), 5 B. & Ad. 507: this was an action for forfeiture, on the ground of waste, against a copyholder, who was found to have pulled down a ruinous barn and to have had no intention at the time of rebuilding it; but the jury also found that the value of the estate was not diminished, and it was held that the action failed. It is true that Coke's statement was cited in argument in *Jones* v. *Chappell*, but I see no reference to it in the judgment, and I do not consider it safe to treat the decision as authority for the proposition that the statement is no longer law.

In *Cole* v. *Green* (1672), 1 Lev. 309, a landlord complained of the demolition of a brew-house and its replacement by "tenements." The jury found that the rental value of the property was increased, as a result, from £120 per annum to £200 per annum. Twisden, J., observed somewhat pathetically that the books were "pro and con" on the question whether building a new house was waste; but Hale, C.J., was more helpful, holding that waste had been committed notwithstanding the melioration, the reason being the *alteration of the thing*.

I think this is the true principle, though dicta can be found suggesting both a wider and a narrower rule. Thus, in *Smyth* v. *Carter* (1853), 18 Beav. 31, Sir J. Romilly came down heavily on the side of the landlords. It was in issue whether the relationship between the parties was that of landlord and tenant, as the defendant merely paid a quit rent to the plaintiffs; but the learned Master of the Rolls delivered judgment on the assumption that the law of landlord and tenant applied, and said that the court would restrain a tenant from pulling down a house and building any other which the landlord *disliked*. It was immaterial that the new one was better; the tenant could not justify his action by showing that the landlord did not know his own interest; the landlord could exercise his own judgment *and caprice*.

This, however, was questioned in the course of *Doherty* v. *Allman* (1878), 3 A.C. 709, in which the House of Lords upheld the refusal of the Lord Chancellor of Ireland to grant an injunction to restrain the lessee of properties held under a 999-year lease and a 988-year lease respectively from converting buildings into dwelling-houses. The buildings had originally been granaries; during, and for a few years after, the Napoleonic wars they were used as barracks; since then they had not been used and were out of repair. The plaintiff relied on a repairing covenant and on the law of waste; there was no covenant against alterations specifically. It was held that, having regard to the length of the leases, no injunction should issue. What is of interest is the treatment of *Smyth* v. *Carter*. Lord O'Hagan pointed out that Lord Romilly's opinion was a mere dictum, uttered in an interlocutory proceeding, and unreasoned; but the important distinction was, that if it did apply to yearly tenancies, the present action concerned a 900-year interest. Lord Blackburn drove the point home by observing that in the case of a yearly tenancy the court might say to the tenant: "You are going to build a brew-house which you say would be much better, but you will not finish that brew-house before your notice to quit expires. You cannot get any good out of it; your alteration is one which I think can do you no good, and which the landlord says he objects to strongly; and upon such a matter as that I think he would be entitled to exercise his own will, though that might not be an advantage to him."

That the length of the term is likely to affect the question whether acts constitute waste can also be seen from comparing two cases of the present century, *Hyman* v. *Rose* [1912] A.C. 623 and *Marsden* v. *Edward Heyes, Ltd.* [1927] 2 K.B. 1 (C.A.). In the former, there was a ninety-nine-year lease of an uncompleted chapel, granted in 1842; the chapel had been completed (as required by covenants) and used as such till 1909; in 1910 the then lessees sold it, and sub-purchasers set about converting it into a cinematograph theatre, offering to deposit money for its restoration at the end of the lease. The alterations, though numerous, did not seriously affect size or shape. It was held that as there was no restriction on user, the necessary alterations constituted neither a breach of covenant nor waste. In the later case, tenants from year to year (under a verbal agreement) converted a shop plus living accommodation into a larger shop plus loft, gutting the premises and leaving nothing of the original building but its four walls. They pleaded that its value was enhanced, but it was held that the obligation to use in a tenantlike manner implied an obligation to repair acts of voluntary waste and that by entirely *altering the character* of the premises they had done acts amounting to voluntary waste.

I think the effect of these authorities is as follows: To build a new house is actionable waste if the novelty extends to character, so that the nature of what is demised is altered beyond what the lease allows or contemplates.

Correspondence.

[*The views expressed by our correspondents are not necessarily those of* THE SOLICITORS' JOURNAL.]

Services Divorces.

Sir,—Whilst one has every sympathy for the serving man whose wife has misconducted herself during his absence, there are, I submit, serious objections to the adoption of Mr. S. G. Cox's suggestion.

In the first place, if matrimonial misconduct became a crime, then presumably the punishment would only be remissible by the Crown, in which case the husband, so far as the crime were concerned, would be unable to forgive his wife.

Secondly, as the misconduct would only be criminal if the husband were away from his home on service, presumably the criminal proceedings could be brought during the husband's absence and without his permission. This would, in effect, make the policeman or some other stranger the guardians of the morals of married women, which surely would be an unjustifiable invasion of the privacy of domestic life and personal liberty.

Thirdly, would not the crime, at any rate so far as the man involved is concerned, be difficult to prove, bearing in mind the maxim *Actus non facit reum, nisi mens sit rea?* I cannot think that Mr. Cox, as a lawyer, would wish that maxim to be disregarded.

Finally, would not the suggested legislation put the wife of a serving man in the position of being regarded as part of her husband's property? If so, then that alone is, I submit, a sufficient reason for rejecting Mr. Cox's suggestion, notwithstanding his philanthropic motive for desiring to see the misconduct of wives repressed.

In any event, surely husbands and wives, so far as matrimonial misconduct is concerned, should be on an equal footing, so why limit the suggested legislation to wives?

Lincoln's Inn, W.C.2. RICHARD C. FITZGERALD.
25th January.

Traffic Accidents.

Sir,—Since Whitsun, 1938, I have travelled by road to my office and home and to many of my appointments—an average of sixteen miles a day—on a pedal cycle, in London, by daylight and black-out, in every condition of weather. I am now convinced that there are two main causes of road accidents. They are the allied ones of impatience and thoughtlessness. Every kind of road user is guilty of these.

There is no single "drastic remedy" for road accidents.

It is easy to know what is necessary. It is that every individual, whether an owner-driver, employed or service driver or rider, cyclist or pedestrian, should be brought to realise his or her personal responsibilities for any accident in which he or she may be involved to which he or she may contribute.

The problem is how to bring this sense of personal responsibility home and make it effective. It will not be done by Acts of Parliament or regulations.

Dulwich, S.E.22. MAX C. BATTEN.
23rd January.

COUNTY COURT CALENDAR FOR FEBRUARY, 1944.

Circuit 1—Northumberland

HIS HON. JUDGE RICHARDSON
Alnwick, 4
Berwick-on-Tweed, 9
Blyth,
Consett, 18
Gateshead, 1
Hexham, 1
Morpeth, 7, 10
†*Newcastle-upon-Tyne, 11 (J.S.), 15, 16 (R.B.), 22 (B.)
North Shields, 24
Seaham Harbour, 21
South Shields, 23
Sunderland, 16, 17 (R.B.)

Circuit 2—Durham

HIS HON. JUDGE GAMON
Barnard Castle, 10
Bishop Auckland, 22
Darlington, 9, 23
*Durham, 8 (J.S.), 21
Guisborough,
Leyburn,
†*Middlesbrough, 3, 16 (J.S.)
Northallerton, 24
Richmond,
†*Stockton-on-Tees, 1, 15, 29
Thirsk,
West Hartlepool, 2

Circuit 3—Cumberland

HIS HON. JUDGE ALLESBROOK
Alston,
Appleby, 21
†*Barrow-in-Furness, 2, 3
Brampton,
*Carlisle, 23
Cockermouth,
Haltwhistle, 12
*Kendal, 22
Keswick, 3 (R.)
Kirkby Lonsdale, 8
Millom,
Penrith, 24
Ulverston,
†*Whitehaven, 9
Wigton, 11
Windermere, 4
*Workington, 10

Circuit 4—Lancashire

HIS HON. JUDGE PEEL, O.B.E., K.C.
Accrington, 17
†*Blackburn, 7, 14, 21 (J.S.), 23 (R.B.)
†*Blackpool, 2, 3, 9, 11 (R.B.), 16 (J.S.)
Chorley, 10
*Clitheroe, 15 (R.)
Darwen, 18 (R.)
Lancaster, 4
†*Preston, 1, 8, 22 (J.S.), 25 (R.B.)

Circuit 5—Lancashire

HIS HON. JUDGE HARRISON
†*Bolton, 2, 9 (J.S.), 23
Bury, 7 (J.S.), 21
*Oldham, 3, 10, 24 (J.S.)
*Rochdale, 11 (J.S.), 25
*Salford, 1, 8 (J.S.), 22, 28 (J.S.)

Circuit 6—Lancashire

HIS HON. JUDGE CROSTHWAITE
HIS HON. JUDGE PROCTOR
†*Liverpool, 3, 4, 7, 8, 9, 10, 11, 14, 16, 17, 18, 21, 22, 23, 24, 25, 28, 29
St. Helens, 9, 23
Southport, 8, 22
Widnes, 11
*Wigan, 10, 24

Circuit 7—Cheshire

HIS HON. JUDGE BURGIS
Altrincham, 2 (J.S.), 16
*Birkenhead, 2 (R.), 8, 9, 16 (R.), 22 (J.S.), 23
Chester, 1
*Crewe, 4
Market Drayton,
Nantwich,
*Northwich, 10
Runcorn, 15
*Warrington, 3, 7 (J.S.)

Circuit 8—Lancashire

HIS HON. JUDGE RHODES
†*Manchester, 1, 2, 3, 7, 8, 9, 10, 11 (B.), 14, 15, 16, 17, 21, 22, 23, 24, 25 (B.), 28

Circuit 10—Lancashire

HIS HON. JUDGE RALEIGH BATT
*Ashton-under-Lyne, 11, 28 (B.)
*Burnley, 3, 4
Colne,
Congleton, 25
Hyde, 9
*Macclesfield, 8 (B.), 17
Nelson, 2
Rawtenstall, 16
Stalybridge, 24 (J.S.)
*Stockport, 8, 22, 23 (J.S.), 25 (B.)
Todmorden, 1, 29

Circuit 12—Yorkshire

HIS HON. JUDGE NEAL
*Bradford, 10, 11 (J.S.), 22
Dewsbury, 24
*Halifax, 17, 18
*Huddersfield, 15, 16
Keighley, 8
Otley, 9
Skipton, 7
Wakefield, 1 (R.), 23

Circuit 13—Yorkshire

HIS HON. JUDGE ESSENHIGH
*Barnsley, 9, 10, 11
Glossop, 2
Pontefract, 14, 15, 16
Rotherham, 22, 23
*Sheffield, 1 (J.S.), 3, 4, 8 (J.S.), 11 (R.), 17, 18, 24, 25, 29 (J.S.)

Circuit 14—Yorkshire

HIS HON. JUDGE STEWART
Easingwold,
Harrogate,
Helmsley,
Leeds,
Ripon,
Tadcaster,
York,
(*List not received*)

Circuit 16—Yorkshire

HIS HON. JUDGE GRIFFITH
Beverley,
Bridlington,
Goole,
Great Driffield,
†*Kingston-upon-Hull,
New Malton,
Pocklington,
*Scarborough,
Selby,
Thorne,
Whitby,
(*List not received*)

Circuit 17—Lincolnshire

HIS HON. JUDGE LANGMAN
Barton-on-Humber,
†*Boston, 3 (R.), 10, 17 (R.B.)
Brigg,
Caistor,
Gainsborough, 18 (R.), 21
Grantham, 11
†*Great Grimsby, 1, 2 (J.S.), 3 (R.B.), 4, 16 (J.S.), 17
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Holbeach, 24 (R.)
Horncastle, 25 (R.)
*Lincoln, 3 (R.), (R.B.), 7
*Louth, 15
Market Rasen, 8 (R.)
Scunthorpe, 8 (R.), 22
Skegness, 9
Sleaford, 15
Spalding, 23
Spilsby, 4 (R.)

Circuit 18—Nottinghamshire

HIS HON. JUDGE TUCKER
Doncaster, 2, 3, 4, 23
East Retford, 22
Mansfield, 7, 8
Newark, 11 (R.)
*Nottingham, 3 (R.B.), 9, 10 (J.S.), 11, 16, 17, 18 (B.)
Worksop, 8 (R.), 15

Circuit 19—Derbyshire

HIS HON. JUDGE WILLES
Alfreton, 15
Ashbourne,
Bakewell, 8
Burton-on-Trent, 16 (R.B.)
Buxton,
*Chesterfield, 11, 18
*Derby, 9, 22 (R.B.), 23, 24 (J.S.)
Ilkeston, 22
Long Eaton, 17
Matlock,
New Mills, 21
Wirksworth, 10

Circuit 20—Leicestershire

HIS HON. JUDGE GALBRAITH, K.C.
Ashby-de-la-Zouch, 17
*Bedford, 15 (R.B.), 23
Bourne,
Hinckley,
Kettering, 22
*Leicester, 7, 8, 9 (J.S.), (B.), 10 (B.), 11 (B.)
Loughborough, 15
Market Harborough,
Melton Mowbray, 4 (R.), 25
Oakham, 11 (R.)
Stamford,
Wellingborough, 24

Circuit 21—Warwickshire

HIS HON. JUDGE DALE
HIS HON. JUDGE FINNEMORE (Add.)
*Birmingham, 1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15 (B.), 16, 17, 18, 21, 22, 23, 24, 25, 28, 29

Circuit 22—Herefordshire

HIS HON. JUDGE ROOPE REEVE, K.C.
Bromsgrove, 25
Bromyard,
Evesham, 23
Great Malvern, 7
Hay, 9
*Hereford, 15, 24
*Kidderminster, 8, 22
Kington, 16
Ledbury,
*Leominster, 14
Ross, 18
*Stourbridge, 10, 11
Tenbury,
*Worcester, 17, 21

Circuit 23 — Northamptonshire

HIS HON. JUDGE FORBES
Atherston,
Banbury, 18
Bletchley, 22
Chipping Norton, 23
*Coventry, 14 (R.B.), 15, 28
Daventry,
Leighton Buzzard, 3
*Northampton, 7, 8, 15 (R.), 18 (R.B.)
Nuneaton, 2
Rugby, 10, 17 (R.)
Shipston-on-Stour, 21
Stow-on-the-Wold, 9
Stratford-on-Avon, 17
Warwick, 11 (R.B.)

Circuit 24 — Monmouthshire

HIS HON. JUDGE THOMAS
Abergavenny, 1
Abertillery, 15
Bargoed, 16
Barry, 10
†*Cardiff, 7, 8, 9, 11, 12
Chepstow, 28
Monmouth, 22
†*Newport, 24, 25
Pontypool and Blaenavon, 23
*Tredegar, 17

Circuit 25—Staffordshire

HIS HON. JUDGE CAPORN
*Dudley, 8, 15 (J.S.), 22
*Walsall, 3, 10 (J.S.), 17, 24 (J.S.)
*West Bromwich, 2, 9 (J.S.), 16, 23 (J.S.)
*Wolverhampton, 4, 11 (J.S.), 18, 25 (J.S.)

Circuit 26—Staffordshire

HIS HON. JUDGE FINNEMORE
Alcester,
Bursiem,
*Hanley, 10, 24
Leek, 14
Lichfield,
Newcastle-under-Lyme, 15
Redditch, 18
*Stafford, 11
*Stoke-on-Trent, 9
Stone,
Tamworth,
Uttoxeter,

Circuit 28-Shropshire

HIS HON. JUDGE SAMUEL, K.C.
Brecon, 18
Bridgnorth, 16
Builth Wells, 10
Craven Arms, 8
Knighton, 9
Llandrindod Wells, 11
Llanfyllin,
Llanidloes,
Ludlow, 14
Machynlleth,
Madeley, 17
Newtown,
Oswestry, 15
Presteign,
*Shrewsbury, 21, 24
Wellington, 22
Welshpool,
Whitchurch, 23

Circuit 29—Caernarvonshire

HIS HON. JUDGE EVANS, K.C.
Bala,
†*Bangor, 14
Blaenau Festiniog, 8
*Caernarvon, 16
Colwyn Bay,
Conway, 17
Corwen,
Denbigh,
Dolgelly,
Flint,
Holyhead,
Holywell, 11
Llandudno,
Llangefni,
Llanrwst, 18 (R.)
Menai Bridge, 15
Mold, 25 (R.)
*Portmadoc, 7
Pwllheli, 18
Rhyl, 9
*Ruthin, 10
Wrexham, 23, 24

Circuit 30—Glamorganshire

HIS HON. JUDGE WILLIAMS, K.C.
*Aberdare, 1, 29
Bridgend, 21 (R.), 22, 23, 24, 25
Caerphilly, 17 (R.)
Merthyr Tydfil, 3, 4
*Mountain Ash, 2
Neath, 15, 16, 17
*Pontypridd, 9, 10, 11
Port Talbot, 18
*Porth, 7
*Ystradyfodwg, 8

Circuit 31—Carmarthenshire

HIS HON. JUDGE MORRIS, K.C.
Aberayron, 3
†*Aberystwyth, 18
Ammanford, 2
Cardigan,
†*Carmarthen, 1
†*Haverfordwest, 16
Lampeter, 4
Llandilo,
Llandovery, 7
Llanelly, 22, 24
Narberth, 14
Newcastle-in-Emlyn, 21
Pembroke Dock, 15
*Swansea, 8, 9, 10, 11

Circuit 32—Norfolk

HIS HON. JUDGE ROWLANDS
Beccles,
Diss, 8
Downham Market, 10
East Dereham,
Eye,
Fakenham,
†*Great Yarmouth, 24, 25
Harleston,
Holt,
†*King's Lynn, 17, 18
*Lowestoft, 11
North Walsham,
*Norwich, 21, 22, 23
Swaffham, 9
Thetford, 15
Wymondham, 16

Circuit 33—Essex

HIS HON. JUDGE HILDESLEY, K.C.
Braintree, 1, 29
*Bury St. Edmunds, 1, 29
*Chelmsford, 7
Clacton, 22
Colchester, 2, 3
Felixstowe, 16
Halesworth, 15
Halstead, 25
Harwich, 4
†*Ipswich, 9, 10, 11
Maldon,
Saxmundham,
Stowmarket,
Sudbury,
Woodbridge

Circuit 34—Middlesex

HIS HON. JUDGE TUDOR REES
Uxbridge, 8, 22, 29

Circuit 35 — Cambridgeshire

HIS HON. JUDGE CAMPBELL
Biggleswade, 1, 29
Bishops Stortford, 2
*Cambridge, 4 (R.B.), 16 (J.S.) (B.), 17 (J.S.) (B.)
Ely, 14
Hitchin, 17
*Huntingdon, 25 (R.)
Luton, 3 (J.S.) (B.), 4, 17 (R.B.)
March,
Newmarket, 18
*Oundle, 11
Peterborough, 4 (R.) 8, 9
Royston,
Saffron Walden, 28
Thrapston,
Wisbech, 15

Circuit 36—Berkshire

HIS HON. JUDGE HURST
*Aylesbury, 4, 18 (R.B.)
Buckingham, 1
Cheltenham, 8, 22
Henley-on-Thames,
High Wycombe, 10
Northleach,
Oxford, 3, 21, 28 (R.B.)
Reading, 10 (R.B.), 16, 17, 18
Tewkesbury,
Thame, 17
Wallingford, 7
Wantage, 29
Witney,

Circuit 37—Middlesex

HIS HON. JUDGE SIR GERALD HARGREAVES
Chesham, 1
*St. Albans, 15
West London, 1, 2, 7, 8, 9, 14, 15, 16, 21, 22, 23, 28, 29

Circuit 38—Middlesex

HIS HON. JUDGE ALCHIN
Barnet, 1, 8, 15, 29
*Edmonton, 3, 4, 10, 11, 17, 18, 22, 24, 25
Hertford, 2
Watford, 9, 16, 23

Circuit 39—Middlesex

HIS HON. JUDGE ENGELBACH
HIS HON. JUDGE TUDOR REES (Add.)
Shoreditch, 3, 4, 7, 8, 10, 11, 14, 15, 17, 18, 21, 22, 24, 25, 28, 29
Windsor (*List not received*)

Circuit 40—Middlesex

HIS HON. JUDGE JARDINE, K.C.
HIS HON. JUDGE DRUCQUER (Add.)
HIS HON. JUDGE TUDOR REES (Add.)
Bow, 1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 28, 29

Circuit 41—Middlesex

HIS HON. JUDGE EARENGEY, K.C.
HIS HON. JUDGE TREVOR HUNTER, K.C. (Add.)
Clerkenwell, 1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 28, 29

Circuit 42—Middlesex

HIS HON. JUDGE LILLEY
HIS HON. JUDGE DAVID DAVIES, K.C.
Bloomsbury, 1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 28, 29

Circuit 44—Middlesex

HIS HON. JUDGE AUSTIN JONES
HIS HON. JUDGE DAVIES, K.C. (Add.)
Westminster, 1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 28, 29

Circuit 45—Surrey

HIS HON. JUDGE HANCOCK, M.C.
HIS HON. JUDGE HURST (Add.)
*Kingston, 1, 4, 8, 11, 15, 18, 22, 25, 29
*Wandsworth, 2, 3, 7 9, 10, 14, 16, 17, 21, 23, 24, 28

Circuit 46—Middlesex

HIS HON. JUDGE DRUCQUER
Brentford, 3, 7, 10, 14, 17, 21, 24, 28
*Willesden, 1, 2, 4, 8, 9, 11, 15, 16, 18, 22, 23, 25, 29

Circuit 47—Kent

HIS HON. JUDGE WELLS
HIS HON. JUDGE HURST (Add.)
Woolwich,
(*List not received.*)

Circuit 48—Surrey

HIS HON. JUDGE KONSTAM, C.B.E., K.C.
HIS HON. JUDGE BENSLEY WELLS (Add.)
Dorking,
Epsom, 2, 9, 16
*Guildford, 3, 17
Horsham,
Lambeth, 1, 2, 3, 4, 8, 10, 11, 14, 15, 16, 18, 21, 22, 24, 25, 28, 29
Redhill, 23

Circuit 49—Kent

HIS HON. JUDGE CLEMENTS
Ashford, 7
*Canterbury, 15
Cranbrook,
Deal, 18
*Dover,
Faversham, 14
Folkestone, 8
Hythe, 25
*Maidstone, 11
Margate, 10
*Ramsgate,
†*Rochester, 16, 17
Sheerness, 24
Sittingbourne, 22
Tenterden, 21

Circuit 50—Sussex

HIS HON. JUDGE AUSTIN JONES
HIS HON. JUDGE ARCHER, K.C. (Add.)
Arundel, 25
Brighton, 3, 4, 17, 18 24
†*Chichester, 11
*Eastbourne, 16
*Hastings, 8
Haywards Heath,
*Lewes, 28
Petworth, 14
Worthing, 22

Circuit 51 — Hampshire

HIS HON. JUDGE TOPHAM, K.C.
Aldershot, 11
Basingstoke, 9
Bishops Waltham, 2
Farnham, 18
*Newport, 23
Petersfield,
†*Portsmouth, 3, 7 (B.), 10, 17
Romsey, 4
Ryde,
†*Southampton, 1, 8, 9 (B.), 15
*Winchester, 16

Circuit 52—Wiltshire

HIS HON. JUDGE JENKINS, K.C.
*Bath, 10 (B.), 17 (B.)
Calne,
Chippenham, 22 (R.)
Cirencester, 25
Devizes, 8 (R.)
Dursley,
*Frome, 15 (R.)
Hungerford, 2
Malmesbury, 24
Marlborough,
Melksham, 18
*Newbury, 16 (R.)
Stroud, 15
*Swindon, 9 16 (B.)
Trowbridge, 11
Warminster,
Wincanton, 18 (R.)

Circuit 54—Somersetshire

HIS HON. JUDGE WETHERED
†*Bridgwater, 4
†*Bristol, 7, 9, 10, 11 (B.), 14 (J.S.), 15, 16, 17, 21, 25 (B.), 28 (J.S.), 29
Gloucester, 1
Minehead, 15 (R.)
Newent, 16 (R.)
Newnham, 9 (R.)
Thronbury,
*Wells, 8
Weston-super-Mare, 2

Circuit 55 — Dorsetshire

HIS HON. JUDGE CAVE, K.C.
Andover, 9
Blandford, 17
*Bournemouth, 3 (R.) 11 (J.S.), 15, 16
Bridport, 22
Crewkerne, 8 (R.)
*Dorchester, 4
Lymington, 18
*Poole, 2, 23 (R.)
Ringwood, 24
*Salisbury, 3
Shaftesbury, 7
Swanage, 25
*Weymouth, 1
Wimborne, 14
*Yeovil, 10

Circuit 56—Kent

HIS HON. JUDGE SIR GERALD HURST, K.C.
Bromley, 8, 9, 22, 23
*Croydon, 1, 2, 7, 15, 16, 21, 28, 29
Dartford, 3, 10, 24
East Grinstead,
Gravesend, 14
Sevenoaks,
Tonbridge,
Tunbridge Wells, 17

Circuit 57-Devonshire

HIS HON. JUDGE THESIGER
Axminster, 14 (R.)
†*Barnstaple, 22
Bideford, 23
Chard, 17 (R.)
†Exeter, 10, 11
Honiton, 14
Langport, 21
Newton Abbot, 17
Okehampton, 18
South Molton,
Taunton, 7
Tiverton, 16
*Torquay, 8, 9
Torrington, 24
Totnes,
Wellington, 14 (R.)

Circuit 58—Essex

HIS HON. JUDGE TREVOR HUNTER, K.C.
Brentwood, 18 (R.)
Gray's Thurrock, 8 (R.)
Ilford, 1, 7 (R.), 14 (R.), 15, 21 (R.), 22, 28 (R.), 29
Southend, 9, 10 (R.), 11, 16 (R.B.), 23

Circuit 59—Cornwall

HIS HON. JUDGE ARMSTRONG
Bodmin,
Camelford,
Falmouth, 21 (R.)
Helston, 8
Holsworthy, 1 (R.)
Kingsbridge, 1 (R.)
Launceston, 17
Liskeard, 16
Newquay,
†*Penzance, 9
Plymouth, 9 (R.), 22, 23, 24, 25
Redruth, 10
St. Austell, 15
Tavistock, 18
†*Truro, 11

The Mayor's & City of London Court

HIS HON. JUDGE DODSON
HIS HON. JUDGE BEAZLEY
HIS HON. JUDGE THOMAS
HIS HON. JUDGE MCCLURE
Guildhall, 1, 2 (A.), 3, 4 (J.S.), 7, 8, 9 (A.), 10, 11 (J.S.), 14, 15, 16, 17, 18 (J.S.), 21, 22, 23 (A.), 24, 25 (J.S.), 28, 29

* = Bankruptcy Court
† = Admiralty Court
(R.) = Registrar
(J.S.) = Judgment Summonses
(B.) = Bankruptcy
(R.B.) = Registrar in Bankruptcy
(Add.) = Additional Judge
(A.) = Admiralty

To-day and Yesterday.

LEGAL CALENDAR.

January 24.—In 1786 a volume of poems by Robert Burns was published. In 1793 there was a new edition, including some poems which had not appeared before. In 1796 Burns died, and in 1800 the copyright in the first published poems expired. In the same year Mr. Creech, of Edinburgh, and Messrs. Cadell and Davies, of London, brought out another edition of his works. In 1802 Mr. J. Robertson, an Edinburgh bookseller, published a small edition of the poems of Burns. This included some which first appeared in 1793. As these had not been entered at Stationers' Hall, the question arose whether the literary property in them was protected. In an action by Messrs. Cadell & Davies, the Court of Session gave judgment for the defender in 1804. In 1811 the House of Lords held that the pursuers were entitled to damages and an interdict. Accordingly, on the 24th January, 1812, the Court of Session altered their former interlocutors, found damages due and remitted the case to the Lord Ordinary to ascertain the quantum.

January 25.—As a manufacturer of guns and rifles, Charles Moore made a great reputation at Chichester. Eventually he decided to come to London and opened an establishment at Notting Hill. As an additional attraction, he kept an enclosure where amateurs could amuse themselves with rifle practice and pigeon shooting. Neighbouring residents complained of danger and annoyance and he was duly convicted of a nuisance. On the 25th January, 1832, he was brought up for judgment in the Court of King's Bench and ordered to enter into recognisances in £1,000 and find two sureties in £500 each that he would neither allow shooting on his premises nor dispose of them for a similar purpose.

January 26.—In the midst of his judicial duties, Lord Campbell found time to write a little book on Shakespeare. On the 26th January, 1859, Lord Macaulay wrote to him: "Thanks for your interesting little volume. I always thought that Shakespeare had, when a young man, been in the lower ranks of the legal profession; and I am now fully convinced of it. It is impossible, I am certain, to mention any writer, not regularly bred to the law, who has made half as many allusions to tenures of land, to forms of action, to modes of procedure, without committing gross blunders. The mistake which you mention about the words 'to join issue' was made by no less a man than Lord Castlereagh, when leader of the House of Commons. You may observe that the best writers perpetually use the word 'pleading' incorrectly. They think that it means haranguing a jury. I saw the other day a sentence to this effect: 'It may be doubted whether Erskine or Curran were the greater pleader.' The person who expressed himself thus would have stared if he had been told that Littledale was a far greater pleader than either."

January 27.—On the 27th January, 1859, Dr. Milman, Dean of St. Paul's, wrote to Lord Campbell on the same subject: "I have read your Shakespeariana with great interest. You have acted Mr. Attorney-General in favour of his legal education with great skill; then subsided with dignity upon the seat of the Chief Justice, and charged us, the jury, with perfect impartiality. It is really a curious, though, at present at least, insoluble question. What struck me the most was the fondness for law terms and images in the poems, his earliest writings."

January 28.—On the 28th January, 1880, Sir William Erle, formerly Chief Justice of the Common Pleas, died at Bramshott, his modest seat near Liphook in Hampshire. He was eighty-seven years old and had lived fourteen years in retirement. His appearance was that of a country gentleman, with keen, bright eyes and a fresh, ruddy complexion. After leaving the bench he spent most of his time on his estate, interesting himself in the welfare of his tenantry and in every charitable work. Though not a sportsman, he was fond of his horses and his dogs. He liked company too, but shone most brightly in his own family circle.

January 29.—In January, 1850, Lord Campbell was Chancellor of the Duchy of Lancaster and a member of the Cabinet, with an expectation, soon to be fulfilled, of becoming Chief Justice of the Queen's Bench, in succession to Lord Denman, then in ill health and on the verge of retirement. On the 29th January he recorded in his journal an extraordinary visit from Lord Brougham. "Standing on his legs all the time and gesticulating very violently," Brougham related a call he had paid to Denman: "I went to him after breakfast this morning. I found his body sadly shattered, for he had almost entirely lost the use of one side, and he cannot move his fingers to write, and how he expected that he was to get on in court I do not understand, although his mind seemed active and he could talk well enough. I applauded his resolution to resign and expressed a hope that the step would be taken immediately. He said: 'Campbell is the obstacle. Do you know how he has insulted me in his life of Holt?' He alluded to the passage in which you no doubt mean to shadow him in describing how Chief Justices have on some points not fulfilled the expectations that had been entertained of them." Brougham went on to detail the interview; Denman's dislike of the idea of being succeeded by Campbell, the danger that if he had another stroke he might be unable to resign, the desirability of Campbell's sending him some passages in which he had spoken respectfully of him. At last Lady Brougham sent up a message that she was tired of waiting in the carriage below and her husband departed.

January 30.—On the 30th January, 1592, the Inner Temple benchers ordered: "Whereas Mr. Brian Crowther has paid all such money as the steward laid out for him as one of the stewards of the reader's dinner last summer, it is ordered that the acts made in the parliament held on 10 October and on the morrow of All Souls last as to the fine of £5 shall be void." His neglect to pay had led to a threat of his being disbarred.

WORKING COMPETENCE.

A recent correspondence in *The Times* brought from the pen of Lord Justice MacKinnon a letter regarding the hearing of undefended divorce cases. Already in his book "On Circuit" he had written: "I cannot conceive why these cases cannot be heard in the county court and by its registrar. It would still be hard on that capable official; for in fact they would not tax the powers of the stupidest man who was ever an acting-deputy-registrar of a county court." In his letter he returned to the charge, pointing out that the fact that the latest judge appointed to the Probate, Divorce and Admiralty Division had never been in a divorce case "was certainly no obstacle to his ability to deal with undefended divorce petitions, as he mostly has to do now; his junior clerk could do it." As a matter of fact, there is little that the average Temple clerk would not be ready to undertake, though occasionally one may be over-enthusiastic. Once, long ago in vacation time, a solicitor delivered the papers in a promising case at the chambers of a leading junior. The clerk assured him that, though his principal was away, he could get him to settle the defence quite quickly. In due course the papers were returned and the action proceeded. It was after the brief had been delivered that something strange was noticed about the pleadings. Inquiry elicited the startling revelation that the clerk had settled the defence himself, artistically appending his principal's signature. This tale recalls a curious piece of private legal history at another level. It seems that Mr. Baron Channell, when his son was at the Bar, was in the habit of delegating to him the writing of his judgments. No one apparently noticed or complained and in due course the younger Channell ascended the Bench in his own right.

Books Received.

Krusin and Rogers' Solicitors' Handbook of War Legislation. Volume V. By MAURICE SHARE, B.A. (Oxon), of Gray's Inn, and S. M. KRUSIN, B.A. (Oxon), of the Middle Temple, Barristers-at-Law. 1944. Medium 8vo. pp. xviii and (with Index) 448. London: The Solicitors' Law Stationery Society, Ltd. £2 10s. net.

Tax Cases. Vol. XXIV. Parts IX and X. 1943. London: H.M. Stationery Office. 1s. each, net.

Tolley's Complete Income Tax, Sur-tax, etc., Chart-Manual for 1943-44. By CHAS. H. TOLLEY, A.C.I.S., F.L.A.A. 1944. London: C. H. Tolley; Waterlow & Sons, Ltd. 6s. post free.

The Lawyer's Companion and Diary for 1944. Ninety-eighth annual issue. Part 1, edited by ARTHUR E. SMITH, Order Dept., Central Office of the Supreme Court of Judicature. Large Crown 8vo. pp. xxvi and 881. London: Stevens and Sons, Ltd.; Shaw & Sons, Ltd. 15s. 4d. net (including purchase tax).

Paterson's Licensing Acts. Fifty-second edition by JAMES WHITESIDE, Solicitor and Clerk to the Justices for Exeter. 1944. Crown 8vo. pp. cxvi, 1526 and (Index) 182. London: Butterworth & Co. (Publishers), Ltd. Thick ed., 32s. 6d. net; Thin ed., 36s. net.

The Summing Up. By C. A. HINKS. 1944. pp. 46. London: Williams & Norgate, Ltd. 2s. 6d. net.

The Journal of Comparative Legislation and International Law. Third Series. Vol. XXV. Parts III–IV. London: Society of Comparative Legislation. 10s. net.

Obituary.

MR. J. M. EASTON.

Mr. James Marshall Easton, barrister-at-law, of Manchester, died on Saturday, 22nd January, aged seventy-six. He was calld by the Inner Temple in 1891.

MR. T. A. NEEDHAM.

Mr. Thomas Ashby Needham, solicitor, of Messrs. T. A. Needham & Son, solicitors, of Manchester, died on Sunday, 16th January, aged seventy-five. He was admitted in 1901.

MR. B. SILVERSTON.

Mr. Bertram Silverston, solicitor, of Messrs. Bertram Silverston and Elgood, solicitors, of Birmingham, died on Wednesday, 12th January, aged seventy-two. He was admitted in 1896.

Notes of Cases.

CHANCERY DIVISION.

In re **Priest; Belfield** *v.* **Duncan.**

Bennett, J. 25th November, 1943.

Will—Testator domiciled in England—Holograph will made in Scotland—Attested by husband of legatee—Validity of bequest—Wills Acts, 1837 (7 *Will.* 4 & 1 *Vict. c.* 26), *ss.* 15 *and* 35.

Adjourned summons.

The testator made his will in 1941, when he happened to be in Aberdeen. He used a printed Scottish will form containing an attestation clause which contemplated its execution in the presence of two witnesses. The testator wrote out his will, with the exception of the formal printed parts, in his own handwriting. He gave one-half of his residuary estate to E. The will was witnessed by E's husband. The testator died in 1942 leaving an estate consisting entirely of personalty. He was both at the date of his death, and when he made his will, domiciled in England. The question raised by this summons was whether the gift of one-half of the residue to E was void under s. 15 of the Wills Act, 1837. The will would have been good in Scotland as a holograph will.

BENNETT, J., said that the first point taken for E was that s. 15 did not apply because the will was made in Scotland, and s. 35 of the Act provided that the Act should not apply to Scotland. The effect of s. 35 was to exclude the application of s. 15 to the will of a testator domiciled in England, if he made his will in Scotland. Section 35 had not that effect. The effect of s. 35 was merely to prevent the Act from altering the testamentary law of Scotland. The second point was that, as the testator could have disposed of all his personal estate by an unattested holograph will made in Scotland, under the Wills Act, 1861, s. 2, the court ought to hold this to be an unattested holograph will. It was agreed that the case was indistinguishable from *In re Limond* [1915] 2 Ch. 240. That decision was based on the founding of fact that the testator was minded to make a soldier's will under s. 11 of the Wills Act. It was impossible to conclude that this testator intended to make an unattested holograph will which was to have legal operation under s. 2 of the Act of 1861. The attestation by two witnesses was not a mere coincidence. There was an intestacy as to the share of residue given to E.

COUNSEL: *R. Ritson*; G. A. *Russo*; *Geoffrey Cross.*

SOLICITORS: *Ravenscroft, Woodward & Co.* (for all parties).

[Reported by Miss B. A. BICKNELL, Barrister-at-Law.]

KING'S BENCH DIVISION.

The Corporation of Foreign Bondholders *v.* **Inland Revenue Commissioners.**

Macnaghten, J. 15th October, 1943.

Revenue—Income tax—Charity—Corporation the primary object of which was to protect foreign bond-holders—Object of corporation not charitable and therefore corporation not exempt from taxation—Income Tax Act, 1918 (8 & 9 *Geo.* 5, *c.* 40), *s.* 37 (1) (*b*).

The corporation was incorporated by the Corporation of Foreign Bondholders Act, 1898, and its first object was to watch over and protect the rights and interests of holders of public securities wherever issued, but especially of foreign and colonial securities issued in the United Kingdom. The corporation appealed from the decision of the Special Commissioners rejecting their claim for exemption from income tax under the provisions of s. 37 (1) (*b*) of the Income Tax Act, 1918, which provides that exemption shall be granted from tax "in respect of any yearly interest or other annual payment forming part of the income of any body of persons . . . established for charitable purposes only . . . and so far as the same are applied to charitable purposes only." It was contended on behalf of the corporation that the protection of the interests of persons who held foreign bonds was a charitable purpose, which, notwithstanding that it was not for the relief of the poor or the advancement of religion or education was beneficial to the community, and the case was analogous to that of the *Inland Revenue Commissioners* v. *The Yorkshire Agricultural Society* [1928] 1 K.B. 611; 13 T.C. 58, where it was held that, although the members of the society did get personal benefits from the operations of the society, that was a purpose subsidiary to its main purpose, which was the advancement of the science of agriculture and the improvement of agriculture throughout the country.

MACNAGHTEN, J., said that the primary object of the corporation was that creditors in this country should get payment of their debts which were owed to them by foreign debtors, and he agreed with the decision of the Special Commissioners that the interest of foreign bondholders was not a charitable purpose within the scope of the preamble of the statute of Elizabeth and, therefore, the appeal would be dismissed.

COUNSEL: *J. Millard Tucker*, K.C., and *J. S. Scrimgeour*; *The Solicitor-General* (Sir David Maxwell Fyfe, K.C.), *J. H. Stamp* and *R. P. Hills.*

SOLICITORS: *Slaughter & May*; *Solicitor of Inland Revenue.*

[Reported by J. H. G. BULLER, Esq., Barrister-at-Law.]

Wilson (Inspector of Taxes) *v.* **Nicholson, Sons and Daniels, Ltd.; Same** *v.* **Daniels.**

Macnaghten, J. 18th October, 1943.

Revenue—Income tax—Lump sum paid to retiring chairman and managing director—Whether deductible by company as trading expense for purposes of tax—Whether payee of sum assessable to tax—Income Tax Act, 1918 (8 & 9 *Geo.* 5, *c.* 40), *Sched. D—Rules applicable to Cases I and II, Sched. D, r.* 3 (*a*), *Sched. E.*

Cases stated by the Commissioners for the Special Purposes of the Income Tax Acts.

These were appeals by the Crown from the decision of the Special Commissioners that (1) the payment by the company of £75,000 to D as compensation for his giving up on retirement the right to hold for life the office of chairman and managing director and to be paid as the holder of such office £15,000 a year was a trading expense, and (2) D was not liable to be assessed to tax under Sched. E in respect of the sum of £75,000, as it was a capital sum paid to him as compensation for relinquishing his office.

MACNAGHTEN, J., said that the payment by the company of the £75,000 was a trading expense and the appeal of the Crown in the first case would be dismissed. As regards the second case, however, it was covered by the case of *Tilley* v. *Wales* [1943] A.C. 326, in which Lord Simon said that payments made as remuneration of a person who was employed could not escape the quality of income which was necessary to attract tax because an arrangement was made to reduce for the future the annual payments while paying a lump sum down to represent the difference. It followed, therefore, that the £75,000 must be regarded as assessable to income tax under Sched. E. The appeal of the Crown, therefore, in the second case would be allowed.

COUNSEL: *The Attorney-General* (Sir Donald Somervell, K.C.) and *R. P. Hills*; *J. Millard Tucker*, K.C., and *J. S. Scrimgeour.*

SOLICITORS: *Solicitor of Inland Revenue*; *Pakeman, Son & Read.*

[Reported by J. H. G. BULLER, Esq., Barrister-at-Law.]

Parliamentary News.

HOUSE OF LORDS.

Ascot District Gas and Electricity Bill [H.L.].
Derwent Valley Water Bill [H.L.].
Gillingham Corporation Bill [H.L.].
Herts and Essex Water Bill [H.L.].
Jewish Colonization Association Bill [H.L.].
London Midland and Scottish Railway (Canals) Bill [H.L.].
Loughborough Corporation Bill [H.L.].
People's Dispensary for Sick Animals of the Poor Bill [H.L.].
Wisbech Corporation Bill [H.L.].
Read First Time. [19th January.

HOUSE OF COMMONS.

Disabled Persons (Employment) Bill [H.C.].
In Committee. [18th January.
Education Bill [H.C.].
Read Second Time. [20th January.
Naval Forces (Extension of Service) Bill [H.L.].
Read First Time. [19th January.
Supreme Court of Judicature (Amendment) Bill [H.C.].
Read First Time. [20th January.

QUESTIONS TO MINISTERS.

APPEALS IN WAR DAMAGE CLAIMS.

Lieut.-Colonel DOWER asked the Chancellor of the Exchequer whether the twenty-eight days' period in which to appeal after the determination of a price for a value payment on bomb damaged houses will apply to owners and tenants engaged on national service either overseas or in this country who, in consequence of such service, have neither the information or the facilities available to lodge an appeal within the specified time.

Sir JOHN ANDERSON: The War Damage (Appeals and References) Rules contain provisions enabling the time limit for an appeal against the War Damage Commission's determination of the amount of a value payment to be extended where there are reasonable grounds for granting such an extension. Extensions may be granted even though the application for the extension is not made until the ordinary time limit has already expired. [18th January.

REMISSION OF FEES IN COUNTY COURTS.

Mr. ROSTRON DUCKWORTH asked the Attorney-General whether, as remission of fees under certain circumstances is permitted both in the High Courts and in the lower criminal courts, he will consider extending, on similar lines, the concession to county courts.

The ATTORNEY-GENERAL: The circumstances in which fees are remitted in the High Court and in certain criminal courts are not in general applicable to proceedings in the county court: county court fees are small and are fixed with a view to prevent the court being clogged with a number of trifling and ill-considered claims. They can be remitted in certain exceptional circumstances, but I do not think that the suggestion in the question is practicable. [19th January.

PENSIONS APPEAL TRIBUNALS.

Mr. MANDER asked the Attorney-General the progress that has been made with the hearing of cases under the Pensions Appeal Tribunals; how many cases have been heard; and how many appeals have succeeded.

The ATTORNEY-GENERAL: Pensions Appeal Tribunals have been sitting continuously since 18th October, 1943. There are four Tribunals now sitting in England and Wales, in London and at various large centres in the Provinces. In view of the large number of cases being made ready for hearing, an increase in the number of tribunals, both in London and in the Provinces, will shortly be necessary, and arrangements to this end have already been made. During the period from 18th October, 1943, to 14th January, 1944, the tribunals for England and Wales heard 746 appeals, of which 195 succeeded. The present average number of cases being disposed of daily by these tribunals is twenty-six. [19th January.

WORKMEN'S COMPENSATION: PRE-1924 ACCIDENTS.

Sir C. EDWARDS asked the Secretary of State for the Home Department whether he is aware that a small number of men suffered accidents prior

to 1924 and consequently do not come under the recent compensation Act: that these men are in receipt of 35s. a week only, without any hope of improvement unless they are brought within the latest Act: and will he take steps to do this.

Mr. HERBERT MORRISON: The recent Act made provision for increasing the supplementary allowances payable under the Act of 1940, and the Act of 1940 applies only to cases occurring on or after 1st January, 1924. All recent workmen's compensation legislation has been limited in its retrospective application to cases occurring on or after 1st January, 1924, and it has not been found practicable to apply these war-time increases retrospectively beyond that date. Workmen injured before 1st January, 1924, are in a special position because they have continued to receive the additions provided under the War Addition Acts of the last war, and they were until recent years in receipt of compensation at a higher rate than workmen injured after 1st January, 1924. [20th January.

PREVENTION OF BIGAMY.

Mr. HANNAH asked the Minister of Health whether, to check bigamy, he will arrange that all identity cards state whether the holder is married or single and instruct any clergyman or registrar performing a marriage ceremony to inspect them.

Mr. WILLINK: Apart from the evidence required on the change of a woman's name on marriage, particulars of changes in marital status, whether on marriage or the dissolution of a marriage by death or divorce, are not obtainable or recorded under present conditions by the National Register. Moreover, the preliminaries to marriage, whether ecclesiastical or civil, are governed by provisions of the law which cannot be varied by administrative instructions. I regret that it is not possible, therefore, to adopt my hon. friend's suggestion for any immediate or short-term purpose: but I will certainly bear the suggestion in mind in connection with any plans or developments which would enable this service to be rendered by the National Register or any similar system. [20th January.

Societies.

ANNUAL MEETING OF THE BAR.

For the first time since he took office, the Attorney-General, Sir DONALD SOMERVELL, K.C., M.P., could not preside at the Annual Meeting of the Bar held in the Old Hall, Lincoln's Inn, on the 18th January. Sir HERBERT CUNLIFFE, K.C., Chairman of the General Council of the Bar, explained, on Sir Donald's behalf, that he was obliged to be present in the House of Commons at the time of the meeting, to deal with a legal point on behalf of the Government. The Solicitor-General also was engaged on other State business. Had Sir Donald been present, said the chairman, he would have spoken of the visit he had paid to the United States since the last Annual Meeting. He had attended and spoken at the annual function of the American Bar Association in Chicago, and had also addressed gatherings of lawyers in Minneapolis, St. Louis, Washington and New York. It would be impossible to exaggerate the cordiality of his reception in all those cities, and he desired to pay a warm tribute to the Association for all it did to strengthen the bond which had always existed between lawyers in the two countries, by its constant hospitality to visitors from these islands. He hoped that when the war was over it might be possible to arrange another visit from representatives of the American Bench and Bar similar to that which had taken place in 1924. He had recently met many of those visitors, and they all expressed the happiest recollections of that occasion. Sir Donald would also have referred, continued the chairman, to the section of the council's annual statement which dealt with the extension of jurisdiction in divorce. He considered that the reason for and the justification of the circuit system and its rules were well set out in the memorandum which the council had submitted to the Wedgwood Committee (see p. 9). That justification was the public interest, and he had no doubt that if difficulties arose as a result of any extension of the jurisdiction, means would be found to deal with them in a way which would serve that interest and preserve the many advantages of the circuit system. Sir Donald also wished to express the gratitude which he felt the profession owed to all members of the Bar Council for the work they did on its behalf.

Moving the adoption of the annual statement, the chairman referred with regret to the losses the council had sustained during the past year. The most grievous of these had befallen by the death of Captain J. Reginald Jones, who had been a member of the Council since 1932 and had served on its Court Buildings Committee. Of its other losses, due to appointment, the council perhaps felt most keenly that of Mr. H. B. Vaisey, K.C., on elevation to the High Court Bench, for he had been elected in 1929 and had served continuously ever since, first on the Business and Procedure Committee and later on the Executive Committee, and on the Recommendations Committee with its difficult and delicate duties. The council could take comfort, however, from so many important appointments made from its ranks.

The council and the Bar alike would, Sir Herbert said, welcome the Attorney-General's suggestion that the American Bar Association should repeat its visit, and would also hope that the visit might be made the occasion for welcoming delegates from the Canadian Bar. Until action to extend the divorce jurisdiction had been decided upon, the circuits could hardly be blamed if they entertained no proposals for alteration until they knew what they would have to deal with. He ended with an eloquent appeal to barristers and solicitors to do all they could to welcome home those members of the Bar who had served their country during the war, and to find them places from which they could resume practice.

The annual statement was adopted without discussion.

War Legislation.

STATUTORY RULES AND ORDERS, 1943 AND 1944.

No. 13. **Customs.** Import Duties (Exemptions) (No. 1) Order, Jan. 12. (Ash or hickory stems).

E.P. 1770. **Food** (Local Distribution) Order, 1943. Amendment Order, Dec. 31.

E.P. 1769. Food (Restriction on Dealings) Order, Dec. 31.

E.P. 28. **Potatoes** (Restriction on Sales) Order, 1943. Amendment Order, Jan. 14.

E.P. 22. **Railway Companies** (Accounts and Returns) Order. Jan. 11.

STATIONERY OFFICE.

List of Statutory Rules and Orders, 1943.

LORD CHANCELLOR'S DEPARTMENT.

Pensions Appeal Tribunals. Notes for the Guidance of Appellants. Dec., 1943.

BOARD OF TRADE.

Companies Act, 1929. Company Law Amendment Committee (Chairman, Cohen, J.). Minutes of Evidence—4th to 6th Days, Oct. 29, Nov. 12, Nov. 26, 1943.

WAR OFFICE.

Regulations for Home Guard, 1942: Vol. I.—Amendments 10, Dec., 1943. Vol. II.—Amendments 7, Dec., 1943.

Notes and News.

Notes.

A meeting of the Haldane Society will take place at The Law Society on Tuesday, 22nd February, at 5 p.m., when Mr. Lewis Silkin, M.P., L.C.C., will give an address on "Housing." Mr. Silkin is chairman of the Town Planning Committee of the London County Council.

Prisoners of War.—Facilities are available for the regular despatch of THE SOLICITORS' JOURNAL to prisoners of war in Germany. Full particulars can be obtained from the Publishers, THE SOLICITORS' JOURNAL, 29/31, Breams Buildings, London, E.C.4.

SWINEY PRIZE FOR 1944.

Mr. Carleton Kemp Allen, M.C., M.A., D.C.L., Warden of Rhodes House, Oxford, has been awarded the Swiney Prize for 1944 for his book entitled "Law in the Making," which, in the opinion of a Joint Committee of the Royal Society of Arts and the Royal College of Physicians, with the assistance of the advice of The Right Hon. Viscount Maugham and The Hon. Mr. Justice Asquith, was the best published work on general jurisprudence submitted for consideration.

It was in 1831 that a stranger called at the Society's office and handed to the then secretary, Dr. Arthur Aikin, the will of Dr. George Swiney, sealed up in an enclosure, and immediately left. Dr. Aikin endeavoured to find out Dr. Swiney's address, but without success, until in 1844 he was summoned to attend at Dr. Swiney's lodging in Camden Town, where he had died on 21st January. On the will being read it was found that the deceased had bequeathed, among other legacies, £5,000 3 per cent. Consols to the Society of Arts on condition that a sum of £100 contained in a silver cup of the same value should be awarded on every fifth anniversary of his death as a prize to the author of the best published work on jurisprudence. This year's award marks the centenary of the prize.

Dr. Swiney was an eccentric character, about whom it has not been possible to gather much information. He was an M.D. of Edinburgh, where he graduated in 1816. His eccentricity was displayed in the provisions made in his will for his funeral. His coffin was covered with a yellow velvet pall, and followed by three girls in gay dresses. So curious a procession naturally attracted much attention, and the crowd was so great that there was difficulty in carrying out the funeral.

Further evidence of his eccentricity was shown in his choice, as adjudicators of the prize, of the members of the Society of Arts and the members of the Royal College of Physicians, "with the wives of such of both of them as happen to be married." Neither of these two institutions has any direct connection with the law, but they have, of course, always sought legal aid in arriving at their decisions.

Court Papers.

COURT OF APPEAL AND HIGH COURT OF JUSTICE—CHANCERY DIVISION.

HILARY SITTINGS, 1944

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE.	EMERGENCY ROTA.	APPEAL COURT I.	Mr. Justice SIMONDS.
Monday, Jan. 31	Mr. Reader	Mr. Andrews	Mr. Jones
Tuesday, Feb. 1	Hay	Jones	Reader
Wednesday, ,, 2	Farr	Reader	Hay
Thursday, ,, 3	Blaker	Hay	Farr
Friday, ,, 4	Andrews	Farr	Blaker
Saturday, ,, 5	Jones	Blaker	Andrews

DATE.	GROUP A. Mr. Justice COHEN *Witness*	Mr. Justice VAISEY *Non-Witness*	GROUP B. Mr. Justice MORTON *Non-Witness*	Mr. Justice UTHWATT *Witness*
Monday, Jan. 31	Mr. Farr	Mr. Blaker	Mr. Hay	Mr. Reader
Tuesday, Feb. 1	Blaker	Andrews	Farr	Hay
Wednesday, ,, 2	Andrews	Jones	Blaker	Farr
Thursday, ,, 3	Jones	Reader	Andrews	Blaker
Friday, ,, 4	Reader	Hay	Jones	Andrews
Saturday	Hay	Farr	Reader	Jones